

**STATE BOARD OF EQUALIZATION**

November 21, 1967

Dear Mrs. X-----

This is in regard to your letter of November 7 and ours of November 3 concerning the application of sales tax with respect to your receipts from sales of photographic portraits and charges made to you for retouching negatives.

As we indicated in our letter of November 3, it was our understanding from your letter of October 18 that where more than one negative was required, you would charge your customer for all such negatives. It was, therefore, our opinion that you were the seller of such negatives and that the charges to you for retouching them were not taxable.

In your letter of November 7 you included the following sample billing:

Four 8x10's at	16.50 (1 neg. included)
Color 1 at 4.50	4.50
2 extra poses at 3.00	<u>6.00</u>
	27.00

We understand from your letter of November 7 that the charges which you label "extra poses" are made for the purpose of reimbursing yourself for retouching charges made to you, as well as additional expenses which you incur in handling and writing up information pertaining to the extra poses.

In our opinion the charges which you label "extra poses" merely represent overhead costs which you incur in producing photographic portraits which you sell and do not represent charges for negatives which you sell. Accordingly, such amounts are properly includable in the taxable selling price of the portraits.

Since you do not sell such negatives to the purchasers of photographic portraits, the amounts which you pay to the retouchers for retouching all of the negatives are subject to sales tax. In view of the foregoing, the conclusions stated in our letter of November 3 are superseded.

We understand from paragraph four of your letter of November 7 that it is your contention that by regarding the amounts charged for "extra poses" as part of the selling price of the portraits, the state is collecting sales tax twice for the same charge. This is not the case. As a retailer of photographic portraits, you merely have made a specific charge to your customer for an expense which you incurred in the production of a tool which you

purchased and which you mayor may not have used in the production of the photographic portraits which you sold.

Very truly yours,

George A. Trigueros
Tax Counsel

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